

**REGULAR MONTHLY MEETING OF THE STEPHENS CITY TOWN COUNCIL**  
**TUESDAY, FEBRUARY 5, 2008**  
**7:30 p.m.**

Mayor Ray Ewing called the meeting to order at 7:30 p.m. and led the Pledge of Allegiance.

Vice Mayor Shull gave the invocation.

Roll call showed the following present:

Vice Mayor Shull, Council member Ron Bowers, Council member Linden A Fravel, Jr., Council member Mike Grim, Council member James Harter, and Council member Joseph W. Hollis..

Staff present: Mike Kehoe, Town Administrator; Kathy Monk, Town Treasurer; Dianne MacMillan, Town Clerk; David Griffin, Town Attorney; Charles Bockey, Jr., Chief of Police.

Guests present: Lou Boyer, Frederick County Transportation Committee liaison; Dave Hehr, Jackson Saxon and Rebekah Long, Stephens Landing HOA;

Press Present: Jessica Burchard, Winchester Star; Linwood Outlaw, Northern Virginia Daily

**ACTION AGENDA**

Council member Grim moved to adopt the Agenda as presented and the motion carried.

**PUBLIC COMMENTS**

Mr. Dave Hehr, 101 Shoe Buckle Ct, and President of HOA for Stephens Landing introduced himself, the Vice President Jackson Saxon and the Sec/Treas. Rebekah Long. He said they wanted to make themselves known to the Council and wanted to stop by and let Council know they were in town. He said they knew some of the Council members and hoped to get to know the rest. They were welcomed by the Mayor and Council members.

**MINUTES – January 8, 2008.**

Council member Hollis moved to approve the minutes of January 8, 2008 as presented and the motion carried by the following vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

## **TREASURER'S REPORT**

The Mayor asked for questions or comments on the Treasurer's report and there were none. The Treasurer's report was accepted as presented.

## **POLICE REPORT**

Mayor Ewing said the police report had been distributed and asked for any questions or comments. There being no comment, the police report was accepted as presented.

## **ACTION AGENDA**

### **A. Public Hearing – Increase of Fees for Bad Checks**

Mayor Ewing said the revision to the ordinance was to increase fees for bad checks from \$10 to \$25. He opened the Public Hearing and asked for comments or questions. There being none, the Public Hearing was closed. The Mayor next asked for questions from the Council members. He advised that this came as a recommendation from the Finance Committee.

Mayor Ewing asked that the Clerk read the ordinance by title only for the first reading. The Clerk read "An Ordinance to impose fees for return of payment Section 1-10, Fees for passing bad check, the Town shall hereby impose a fee of \$25.00 and Section 2-111(a) is amended so that the fee amount for a dishonored check is changed from \$10.00 to \$25.00". Council member Fravel moved to approve the first reading of the ordinance and the motion passed.

Mayor Ewing asked that the Clerk read the ordinance by title only for the second reading. The Clerk read "An Ordinance to impose fees for return of payment Section 1-10, Fees for passing bad check, the Town shall hereby impose a fee of \$25.00 and Section 2-111(a) is amended so that the fee amount for a dishonored check is changed from \$10.00 to \$25.00". Council member Fravel moved to approve the second reading of the ordinance and the motion passed.

Mayor Ewing announced that the third and final reading of the ordinance would be scheduled for the March meeting.

### **B. Lou Boyer – Report from Frederick County Transportation Committee**

Mayor Ewing presented Lou Boyer, liaison to the Frederick County Transportation Committee, who was present to make a report. Mr. Boyer said the presentation was basically an information issue to provide Council with maps of the study that was done to determine land use and transportation down the Rte 277 corridor. He said the purpose of the plan was to serve as a starting point and other ideas from Council were encouraged. He discussed three maps – future land use; transportation report and community facilities proposed for the area between I81 down Rte. 277 and over to Rte. 522 including most of the area within one mile of Rte. 277. Mr. Boyer said the town would be interested in the relocation of Exit 307 farther to the south. Council member Hollis noted that the future South Frederick Parkway would tie into the Stephens City bypass. Council member Fravel said that it only made sense to expand the study area to the south and this should be looked at. Mayor Ewing said the Town would obviously be involved in the development around the relocated interchange and the planning in this area should begin

soon. In other matters, Mr. Boyer thanked the Town Council for the new roof on the scout building. He added that the Scout Troop will be celebrating its 30<sup>th</sup> anniversary next weekend.

### C. Deed of Dedication – Allegheny Energy

Mr. Kehoe, Town Manager reported that the Public Works Committee reviewed the easement for Allegheny Energy. He said the agreement with Centex Homes was that they would close up the old lagoon site and this work was completed. He said they now propose to extend electric service across the town's property to their development. Mr. Kehoe said the agreement would minimize the impact on the area as the easement is only five feet away from the existing right of way and Verizon also wished to relocate its line to the south side to minimize impact on useful land. He reported that in asking the town for this easement, Centex had indicated its willingness to provide the town with a contribution for the community center the details of which had not been worked out. Council member Grim said Public Works Committee was in agreement to grant the easement on that side of the property. Vice Mayor Shull said the proposed location seemed to be the most logical non-intrusive location.

Council member Grim moved that the Town grant the deed of dedication to Allegheny Energy as proposed. Mr. Griffin, Town Attorney said he reviewed the agreement and noted that it did not contain language that would indicate that the line would be buried which was the understanding nor language that work done after installation would require Allegheny to restore the site. He said these concerns could be corrected with the proper language. He suggested that Council could grant the easement conditioned on the best possible deal to be negotiated by the Town Manager.

Council member Grim amended the motion to state that the town approve the deed of dedication to Allegheny Energy with language requiring underground installation, negotiated proffers and the best possible deal to be negotiated by the Town Manager. The motion passed with the following recorded vote:

#### Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

### D. Deed of Dedication - Verizon

Mayor Ewing said the deed of dedication for Verizon was for the same location. Mr. Griffin said he had the same concerns with this deed of dedication and suggested that the same terms be applied. Council member Grim moved that the deed of dedication be approved contingent upon the terms noted as agreed upon by Council and the Town Manager with corrected language for replacement and restoration. Council member Fravel asked about the location of the junction

boxes and Vice Mayor Shull noted that they were indicated on the drawing attached to the easement. The motion passed by the following recorded vote.

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

E. Third and Final Reading – Flood Plain Ordinance Amendments

Mayor Ewing asked that the Clerk read the Ordinance by title only for the third and final reading. The Clerk read “An Ordinance to Amend Chapter 1, Chapter 7 and Chapter 23 of the Code of the Town of Stephens City, Virginia for the purpose of revising the Town’s Floodplain Ordinances.” Council member Fravel moved that the Council of the Town of Stephens City adopt the amendments to the Flood Plain Ordinance. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

F. Third and Final Reading – Karst Terrain Ordinance

Mayor Ewing asked Mr. Griffin about definitions in the ordinance being in several chapters of the Town Code. Mr. Griffin suggested that if the zoning administrator was to enforce the ordinance it should be included in the zoning ordinance. He said if it would incorporate zoning enforcement terms and use an overlay, it ought to be put back into the zoning ordinance which would require it to go back to the Planning Commission for further review. Mayor Ewing asked if the Planning Commission reviewed it. Council member Fravel, Chairman of the Planning Commission said it was reviewed and there were no problems from a technical standpoint. Mayor Ewing asked if Council could proceed with adoption as a part of the zoning ordinance. Mr. Griffin said since it was originally advertised as a part of the zoning ordinance it could be adopted in that context. Mayor Ewing said the ordinance would be modified to be a part of Chapter 23 as originally advertised.

Mayor Ewing asked that the Clerk read the Ordinance by title only for the third and final reading. The Clerk read “An Ordinance to Amend Chapter 23 of the Code of the Town of Stephens City, Virginia for the purpose of creating a new ordinance regarding karst terrain.” The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

G. Release of Bond – Centex Homes

Mr. Kehoe said the project started five years ago with developer Centex Homes with an agreement which included a bond to close in the old town sewer plant. He said the work had been completed. He added that DEQ had signed off on it and after several inspections everyone was satisfied that the requirements had been met.

Council member Grim moved that the Town of Stephens City release the bond for Centex Homes regarding the closeout of the old lagoon site. Council member Fravel asked if documentation had been received that the pad site was prepared to standards and Mr. Kehoe said those statements had been received. The motion passed with the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

H. Barley Drive Sewer Backup – Reimbursement of Clean Up Costs

Vice Mayor Shull, Chair of the Water/Sewer Committee said the town received two complaints about sewer backup into residences on Barley Drive. She reported that some sort of non bio-degradable material had been put into the sewer system causing the backup. She said property clean up and repair would normally be the responsibility of the homeowner but there were some problems due to an equipment breakdown and City of Winchester, as backup, did not respond. Vice Mayor Shull reported that it was the feeling of the committee that the town showed some negligence by not being able to respond immediately to the problem. Two homeowners experienced damage to their basements and both have a \$500 deductible. They were asking for reimbursement from the town for this deductible. The Vice Mayor said the Committee recommended that both parties be reimbursed their deductible amount of \$500.00 if there are no legal problems. The Town Attorney said he had prepared releases and suggested that the reimbursement be made conditioned on the signing of the releases. Vice Mayor Shull moved that Council reimburse \$500 deductible to Virginia Properties Group (5089 Barley Drive) and Walter M. Quinn (5114 Barley Drive) conditioned on the signing of releases prepared by the Town Attorney. The motion passed by the following recorded vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

**COMMITTEE REPORTS**

Personnel Committee

Council member Harter, Chair of the Personnel Committee, stated that the committee met with reference to Mr. Tim Stowe's standing as town engineer. Council member Harter moved that Tim Stowe be appointed Town Engineer on recommendation of the Personnel Committee and in accordance with Sec 2-113 of the Code of the Town of Stephens City. The motion passed with the following vote:

Recorded Vote:

Vice Mayor Shull	-	Aye
Council member Bowers	-	Aye
Council member Fravel	-	Aye
Council member Grim	-	Aye
Council member Harter	-	Aye
Council member Hollis	-	Aye

Mr. Harter reported that the Committee also discussed the time served by Kathy Monk and recommended that she be moved past her probation period as Town Treasurer.

**MOTION FOR CLOSED MEETING**

Motion By: Vice Mayor Joy Shull

I move that the Council of the Town of Stephens City enter Closed Session pursuant to Section 2.2-3711.A.1 of the Code of Virginia, 1950, As Amended, for the purpose of discussion, consideration of promotion, performance or salaries of specific employees.

VOTE:

Aye – Vice Mayor Shull  
Council member Bowers  
Council member Fravel  
Council member Grim  
Council member Harter  
Council member Hollis

Nay – None

Absent/Abstain - None

ATTEST: \_\_\_\_\_  
Dianne L. MacMillan, CMC, Town Clerk

**CERTIFICATION OF CLOSED MEETING**

**RESOLUTION**

Date: February 5, 2008

Motion By: Vice Mayor Shull

WHEREAS, the Council of the Town of Stephens City, Virginia has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such Closed Meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

RECORDED ROLL CALL VOTE:

Aye – Mayor Ewing

Council member Bowers

Council member Grim

Council member Hollis

Vice Mayor Shuyll

Council member Fravel

Council member Harter

Nay – None

Absent – None

Abstain – None

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Dianne L. MacMillan, CMC, Town Clerk

There was no action taken as a result of Closed Session.

### **PLANNER'S REPORT – Brian Henshaw**

Mayor Ewing stated that the Planner's report, along with information on West Wynd Subdivision and an annual planning report were included in the agenda package and asked if there were any questions. There were no questions or comments from Council. Council member Hollis asked if payments could be taken on-line yet and he was told that it would be before the end of the month.

### **TOWN ADMINISTRATOR'S REPORT – Mike Kehoe**

Mr. Kehoe reminded the members of the Frederick County Transportation Committee meeting on the Rt. 37 access study to be held Monday, February 11 at 7 pm as previously discussed by Mr. Boyer. On other issues, he reported that the town replaced the server and although there were still bugs to work out, it was better every day.

### **COUNCIL COMMENTS/CALENDAR**

The Public Works Committee and Water and Sewer Committee meetings were rescheduled to February 7 at 10:30 a.m. and 10:00 a.m. respectively. An Administrative Committee meeting was scheduled for February 27<sup>th</sup> following the Finance Committee meeting at 5:00 pm

### **ADJOURN**

There being no further business, Councilman Grim moved to adjourn and the motion carried. The meeting adjourned at 8:30 p.m.

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Ray E. Ewing, Mayor

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Dianne L. MacMillan, CMC  
Town Clerk